

**REMARKS**

The present amendment is in response to the Office Action dated June 7, 2005, where the Examiner has rejected claims 1-22. By the present amendment, claims 2, 4, 13 and 15 have been cancelled and claims 1, 3, 5, 6, 12, 14, 16 and 17 have been amended. Accordingly, claims 1, 3, 5-12, 14 and 16-22 are pending in the present application. Reconsideration and allowance of pending claims 1, 3, 5-12, 14 and 16-22 in view of the amendments and the following remarks are respectfully requested.

**A. Claim Rejections Under §102:**

Paragraph 1 rejects claims 1, 2, 11, 12, 13, and 22 under 35 U.S.C. 102(b) as being anticipated by Johnson (United States Patent No. 6,366,856). Applicant notes that the Examiner has mistakenly applied Johnson as a §102(b) reference. Because the Johnson patent issued after the U.S. filing date of the present application (February 5, 2002), Johnson is a § 102(e) reference. Applicant will treat it as such.

Applicant has cancelled claims 2 and 13 thereby rendering the rejection moot. Accordingly, Applicant respectfully requests withdrawal of the rejection. Applicant notes, however, that claims 2 and 13 have been cancelled without prejudice and Applicant expressly reserves the right to pursue any patentable subject matter contained in claims 2 and 13.

Applicant has amended claim 1 to contain the limitations of claims 2 and 4. As noted below, claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in further view of Meyer. As the Action admits, however, Johnson does not

teach all of the limitations of claim 4. Therefore, Johnson cannot render amended claim 1 unpatentable. Further, for the reasons described below, Applicant believes that amended claim 1 is allowable over Johnson in combination with Meyer. Applicant therefore respectfully requests that the rejection as to claim 1 be withdrawn. Claim 11 depends from claim 1. Applicant therefore respectfully requests that the rejection as to claim 11 be withdrawn.

Applicant has amended claim 12 to contain the limitations of claims 13 and 15. As noted below, claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in further view of Meyer. As the Action admits, however, Johnson does not teach all of the limitations of claim 15. Therefore, Johnson cannot render amended claim 12 unpatentable. Further, for the reasons described below, Applicant believes that amended claim 12 is allowable over Johnson in combination with Meyer. Applicant therefore respectfully requests that the rejection as to claim 12 be withdrawn. Claim 22 depends from claim 12. Applicant therefore respectfully requests that the rejection as to claim 22 be withdrawn.

**B. Claim Rejections Under §103:**

Paragraph 3 rejects claims 4 and 15 under 35 U.S.C. 103(a) as being anticipated by Johnson in view of Meyers (United States Patent No. 6,882,853). Applicant has cancelled claims 4 and 15 thereby rendering the rejection moot. Accordingly, Applicant respectfully requests withdrawal of the rejection. Applicant notes, however, that claims 4 and 15 have been cancelled without prejudice and Applicant expressly reserves the right to pursue any patentable subject matter contained in claims 4 and 15.

Claim 1 has been amended to include the limitations of dependent claim 4.

Claim 12 has been amended to include the limitations of dependent claim 15. As noted above, the Action admits that Johnson does not teach each and every element of claims 4 and 15. Accordingly, Meyer must make up for the deficiencies of Johnson. Applicant asserts, however, that Meyer cannot make up for the deficiencies of Johnson because Meyers is improper prior art under 35 U.S.C. 103 because the inventor invented the subject matter of claims 4 and 15 prior to the effective date of Meyers.

Under 37 C.F.R. 1.131 “[w]hen any claim of an application...is rejected...the inventor of the subject matter of the rejected claim...may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference.” All the inventors of the subject matter claimed may make the affidavit or declaration. (See MPEP 715.04).

As described in the declaration included with this submission, the inventor of the claims in the present application has invented the claimed subject matter at least as early as June 2001. Thus, under 37 C.F.R. 1.131, as quoted above, Meyers is improper prior art under 35 U.S.C. 103, because the inventor in this application invented the claimed subject matter prior to the June 27, 2001 filing date of Meyers. Applicant therefore respectfully asserts that Meyers cannot make up for the deficiencies of Johnson. Accordingly, Applicant, therefore, respectfully requests withdrawal of the rejection of claims 1 and 12.

Paragraph 4 rejects claims 3, 5, 6, 14, 16, and 17 under 35 U.S.C. 103(a) as being anticipated by Johnson and Williams (United States Pub. 2003/0054830). The Action admits that Johnson does not teach each and every element of claims 3, 5, 6,

14, 16, and 17. Accordingly, Williams must make up for the deficiencies of Johnson. Applicant asserts, however, that Williams cannot make up for the deficiencies of Johnson because, as with Meyers, and as evidenced by the declaration included with this submission, the inventor invented the claimed subject matter prior to the September 4, 2001 priority date of Williams. Thus, under 37 C.F.R. 1.131, as quoted above, Johnson and Williams alone or in combination, cannot render claims 3, 5, 6, 14, 16, and 17 unpatentable, because Williams is improper prior art under 35 U.S.C. 103. Applicant therefore respectfully requests withdrawal of the rejection of claims 3, 5, 6, 14, 16, and 17.

Paragraph 5 rejects claims 7-10 and 18-21 under 35 U.S.C. 103(a) as being anticipated by Johnson and Williams in further view of Myers. As noted above, the Action admits that Johnson does not teach each and every element of claims 7-10 and 18-21. Accordingly, Williams and Myers must make up for the deficiencies of Johnson. Applicant asserts, however, that Williams and Myers cannot make up for the deficiencies of Johnson because Williams and Myers are improper prior art under 35 U.S.C. 103 as noted above.

Applicant therefore respectfully requests withdrawal of the rejection of claims 7-10 and 18-21.

**C. EXTENSON OF TIME**

In accordance with 37 C.F.R. 1.36(a), a credit card payment in the amount of \$120 is enclosed to cover the Petition for Extension of Time fee set forth under 37 C.F.R. 1.17(a)(1).

D. **CONCLUSION**

For all the foregoing reasons, allowance of claims 1, 3, 5-12, 14 and 16-22 pending in the present application is respectfully requested.

Respectfully Submitted;

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